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## THE FORMULATION OF NORMAL LAWS.

WITH ESPECIAL REFERENCE TO THE THEORY OF UTILITY.

It is scarcely necessary to say that the theory of marginal utility has thrown new light upon problems hitherto obscure, and thus has forced a restatement of many fundamental doctrines. In view of this fact, a discussion of the general bearing of the theory is needed more than new applications of it or additional controversy as to the applications already made. Because of the breaking down of old standards, there has entered recent economic literature a species of eclecticism which cannot be eliminated without a re-examination of the methods of the science and a consideration of the changes which this theory has introduced.

To get at the topic to be discussed, a bit of familiar history must be restated. The principle or theory of utility was introduced into economic discussion by Bentham and his followers. This utilitarianism swept away with a rude hand all the distinctions by which special classes were favored, or by which special pleasures or emotions were given an exceptional place. Every person was to count for one, and no person for more than one. All goods were regarded merely as lots of pleasures, each unit of which had the same value. It was denied that pleasures had qualities, some of which were superior in their effects to others. Pushpin was intrinsically as good as poetry.

The theory of utility thus gave a ready measure by which the welfare of each person could be determined. The units of goods possessed by an individual told accurately the units of his welfare, because each unit of goods gave to its possessor the same amount of pleasure. The application of these ideas to economics gave to it the concepts of normal laws, and of the normal or economic man. But for the fusion of the ideas of Bentham with those of Ricardo and Malthus,

the rigid Ricardianism of the next generation would have been impossible. The economic man is merely an ideal of the utilitarians. He measures his satisfactions in ounces of bread, and his pains in units of time-labor; he is mobile because he attaches no importance to the peculiar pleasures of time, place or locality; home, country and friends are readily exchanged to get more ounces of bread or to reduce the amount of time-labor.

This concept of a normal man was not a vague ideal in the mind of Bentham, but one that he developed with great fullness. His thought is well expressed in the following sentences: "When the effect of a portion of wealth upon happiness is spoken of, it is always without reference to the sensibility of the particular individual, and of the exterior circumstances in which he may be placed. Difference in character is inscrutable; and there are no two individuals whose circumstances are alike. If these two considerations were not laid on one side, it would be impossible to form a single general proposition: but though each of these propositions may be found false or inexact in each particular case, it will neither militate against their speculative correctness, nor their practical utility. It is sufficient,—first if they approach more nearly to the truth than any others which can be substituted for them; and, secondly, if they may be employed by the legislator, as the foundation of his labors, with less inconvenience than any others." \*

This statement is followed by five axioms fixing the relation of quantities of wealth to the amount of happiness which its possessors can obtain from it. As Bentham puts them in italics, it shows that they are the result of a careful formulation.

1. *Each portion of wealth is connected with a corresponding portion of happiness.*
2. *Of two individuals, possessed of unequal fortunes, he who possesses the greater wealth will possess the greater happiness.*

\* Bentham's Works (Bowring's edition) Vol. i, p. 305.

3. *The excess of happiness on the part of the most wealthy will not be so great as the excess of his wealth.*

4. *For the same reason, the greater the disproportion between the two masses of wealth, the less the probability that there exists an equally great disproportion between the masses of happiness.*

5. *The more nearly the actual proportion approaches to equality, the greater will be the total mass of happiness.\**

It will be noticed that these rules recognize the doctrine of satiable wants and the declension of utility. In another place it is stated even more clearly.† “The quantity of happiness produced by a particle of wealth (each particle being of the same magnitude) will be less and less at each particle; the second will produce less than the first, the third than the second, and so on.” The statement that “the value of a thing in the way of exchange arises out of, and depends altogether upon, and is proportioned to, its value in the way of use”‡ is a recognition that value depends upon utility alone. Had Bentham developed these propositions but a step farther, the modern theory of value would have been fully expressed and the work of his successors anticipated. It is easy, however, to see why Bentham stopped short of a full development of his theory. His interest lay not in a theory of value nor in a theory of wealth and prosperity, but in a theory of equality. When this latter theory had been fully explained, he had little interest in the application of his principles to other fields.

The error in Bentham's reasoning, which shows itself in his first axiom, was due to the sharp way in which he contrasted subsistence and abundance. Subsistence, he tells us, does not admit of degrees in the scale of equality; every particle of wealth used for subsistence creates an equal

\* He also states many secondary rules, one of which shows that he saw clearly the principle upon which progressive taxation depends.

“Among unequal fortunes, the loss of happiness produced by a loss of wealth, will be so much the less when the distribution of the loss is made in such a manner as to cause them to approach most nearly to equality.”

† Vol. iii, p. 229.

‡ Vol. iii, p. 226.

amount of happiness. It is only in the case of abundance that the different particles of wealth create unequal amounts of happiness. In this, however, he does not differ radically from later writers, who have the same thought but express it in another way. They tell us that the first units of wealth in the form of subsistence have an infinite value. Only after the food necessary to life has been supplied can begin that declension of utility upon which the theory of value depends. Bentham, therefore, was wrong only in the emphasis he gave his first axiom. He seems to have thought that subsistence was of so much more importance than abundance that on ordinary occasions the axioms relating to the latter could be neglected without loss. There is no need of analyzing goods into the units of pleasure or units of pain if ounces of bread and units of time-labor give a practical standard by which pleasures and pains can be measured.

While the theory of marginal utility is but a corollary of the theory of utility propounded by Bentham, yet it is easy to see why his followers were so bitterly opposed to the former theory when it was introduced into English economics by Jevons. The hated thought of qualities of pleasures and pains gets a new life when it is seen that each ounce of bread and each unit of labor creates in consciousness a peculiar feeling of pleasure and of pain. Subjective standards being once introduced it is no longer possible to assume that the pleasures and pains which one man obtains from given objective relations or goods, are equal to those which other men obtain from the same sources.

The sweeping changes made by the newer theory has destroyed the old concept of a normal man. Great stress is now laid on the peculiarities of the individual man. We have grown fond of emphasizing the differences between men and between different classes of men. It is also contended that justice shall not be determined by general rules which overlook individual differences, but by some method which

will allow all of the subjective effects of goods on individuals to be considered and to have due weight. This new attitude is shown nowhere more clearly than in a recent discussion about the standard of deferred payments, in which several of our younger economists have taken part.\* It illustrates the tendency to discard the traditional normal laws and to lay aside the concept of a normal or economic man whose wants and feelings can be measured by objective standards. The discussion is also of value because it brings out several concepts of justice, all of which are of such a character as to make justice depend more upon a knowledge of individuals concerned than upon general rules or conditions. The traditional Goddess of Justice, who gives judgment when blindfolded, cannot satisfy those who demand that each person's stomach, palate and nervous condition shall be tested before the quantity of goods which he must give or receive in fulfilling a contract can be determined.

Before examining the correctness of these ideas, it is necessary to make plain the various steps in the development of the theory of marginal utility, and in the use of the diagrams by which this theory is illustrated. Jevons introduced into economic literature the thought of marginal utility and the elementary ideas upon which are based the diagrams of later writers. He failed, however, to grasp the thought of subjective values, and thus left to the Austrian economists a rich field which they have fully exploited. But these writers stopped short of what was possible for them to do with their material, partly because of their negative way of measuring utility, but more largely because they did not seek to increase the definiteness of their results by the use of diagrams. The next step was taken by Professor Marshall,

\* "The Standard of Deferred Payments," by Professor Ross, *ANNALS*, November, 1892, Vol. iii, p. 293; "Theory of Final Utility in Relation to the Standard of Deferred Payments," by Dr. Merriam, *ANNALS*, January, 1893, Vol. iii, p. 483; "Total Utility Standard of Deferred Payments," by Professor Ross, *ANNALS*, November, 1893, Vol. iv, p. 425; "Theories of Value and the Standard of Deferred Payments," by Professor Fetter, *ANNALS*, May, 1895, Vol. v, p. 882.

and his work will compare favorably with that of any of his predecessors. He made this advance by measuring utility not directly in units of satisfaction, but indirectly in the quantity of money which persons will pay rather than to be deprived of each increment of commodity. By leaving out of consideration the first increments of those commodities so necessary to life that their utility is indefinitely great, he was able to construct a diagram which shows in a concrete way not only the total utility of the whole supply of any article but also of its total value and the consumer's surplus.

The same results have been obtained by American economists in a different way. Diagrams similar in form to those of Professor Marshall are in use, but the lines and parts represent other ideas, and certain inferences are needed to make the results of the two kinds of diagrams harmonize. In the American diagrams the base line represents not the total supply of one commodity, but the total production of some individual or community in a given day or period, while the vertical lines measure not its value in money, but the intensity of the pleasure derived from each increment of commodity. When we wish to determine the prosperity of a man or of a society, the unit of investigation is the total production of some one day or period. But when we desire to determine market values, the whole stock of each commodity, no matter when produced, becomes a unit which must be compared with similar stocks of other goods.

It is necessary to call attention to these differences because much of the confusion in current discussions is due to a mixed use of these two methods of representation, or to an unconscious passing from one group of ideas to the other.\*

\* Professor Fetter, for example, in the paper to which I have referred, says that it is impossible to express mathematically the total utility of a sum of goods of different kinds, because there are numerous goods the utility of each of which is infinite. Such a statement confuses the measurement of the utility of goods through the units of satisfaction they afford with an indirect measurement of utility through the value of the goods. To a thirsty man in a desert, a cup of water may have infinite value; that is, he may give all that he has to possess it. But the satisfaction

The method used by Professor Marshall is an admirable one to represent the play of forces by which the market value of single commodities is determined; but its utility is limited to this and similar problems where the play of the momentary forces are of supreme importance. The American economists, however, have not limited themselves to the field of market values, and to a consideration of the momentary forces which determine them. All that is peculiar in their writings comes from the application of the concept of marginal utility to other theories than those of market values. Their interest has centred in such problems as social values, the ultimate standard of value, the length of the working day, the relation of cost and expense, and the standard of deferred payments.

That every one sees clearly the modifications in reasoning involved in this extension of interest to other problems is a question. We are apt to use old premises and standards in unwarranted ways and reason incorrectly even while reaching sound conclusions. There is a strong tendency to base conclusions upon familiar premises rather than to attempt to broaden or modify these premises to meet the new situation. In this way the reasoning in recent American economics is made to rest on the premises of Jevons, Marshall and the Austrian economists, when in reality but a small part of its premises is derived from these sources. In our eagerness to exploit the newer theory of marginal utility we are apt to forget the older theory of utility formulated by Bentham and put by him and his followers at the basis of their social philosophy. Jevons is right in the homage he does to Bentham and deserves great credit for the clear way in which he shows the connection between his theories and

he gets from drinking this cup of water is finite and capable of measurement. There are definite limits to the amount of satisfaction which a person can enjoy at a given moment, and a series of such satisfactions, however long, are also finite in amount. Often an article of infinite value, instead of giving pleasure, is a source of pain. We dislike many kinds of indispensable medicines. A man would not enjoy having his hand cut off, even if it saved his life.



those of Bentham. It is the Austrian economists who first neglect the older theory of utility and in so doing they commit no error, for they limit their discussions to fields where this theory is of little or no importance. The error shows itself in a younger group of writers, who were initiated into the use of the theory of utility through the writings of the Austrians and have never studied the old theory of utility upon which these writings are based. These younger economists, having an interest in other problems than those of market values, try to extend the use of the theory of marginal utility to other fields rather than to ground their discussions where they properly belong—upon the old theory of utility. Thus, in the discussion to which I have referred, on the standard of deferred payments, none of the writers seems to have been aware that the topic he was discussing lies within the domain of the general theory of utility; and that the theory of marginal utility, no matter how fully or finely drawn out, had nothing to do with it. Marginal utility can tell us much of the momentary forces which determine market values to-day. It can tell us also how market values will be determined ten years from now, but it can tell us nothing of the relations which bind these two periods together. What quantity of goods ten years from now will be the proper amount to return for a loan of a given amount of goods to-day must be decided by a group of ideas with which the theory of marginal utility has nothing to do. I contend for even more than this. The type of ideas which the theory of marginal utility makes prominent tends to turn the attention from the very principles which must be used in solving such problems.

In all discussion relating to value an analysis of present conditions is most important. The interest is centred in the quantity of goods actually on hand. These goods are forced up and down in value, and are distributed in this or that quantity to the different participants in present production. Such discussions have to do with the actual goods and

the actual people which are in the world at a given time. There is no comparison of the present with the past or future. Time relations and the social standards to which they give rise are of little importance in determining present values or present distribution. No ideal element enters the problem. Cold, hard facts alone have weight. In a theory of prosperity, however, different periods must be compared. We must be familiar with the standards of yesterday and those of to-day and anticipate what those of to-morrow will be. We have to do not with the facts of these periods, but with people's ideas of these facts and with the ideals and standards through which these facts are interpreted. A theory of prosperity must, therefore, begin with a study of the ideals and standards of the people under consideration. We must know not only what these elements of our subjective environments are at present, but also what they were in the past and what they are likely to be in the future. In discussing the standard of deferred payments the ideals, standards and industrial conditions of two periods must be compared. An appeal must be made to the prevailing ideal of justice. This ideal cannot be applied alone; it becomes a force only when it acts in harmony with the other race ideals and standards and is interpreted through the light which they shed on the situation. Ideals and standards cannot be isolated without losing the very element that makes them effective. They form a unit and have been blended and harmonized by the slow process of development through which the race has gone. These ideals are the outcome of the permanent forces of society and represent its normal tendencies, and in so far as they affect character, they tend to eliminate differences and to make all men alike. The thought of normal laws and of a normal man is the direct outcome of this process by which the race ideals and standards are formed. The normal laws are the enduring elements in a society and the normal man is the idealization of the common characteristics in men which these laws create. The moral norm or standard is the best

of which we can conceive, the economic or political norm, however, is simply the present man pictured in terms of his common qualities.

It should be kept in mind that the normal or economic man of the classical economists, is not their creation, but is the result of the application of the democratic ideals of the race to economic problems. Democracy could not have its present force if the common qualities of men had not been idealized. Only when the differences and defects of men are overlooked can the concept of free citizens, born with certain natural rights, become vivid enough to control society. The citizen is taught to pride himself on these common qualities and to resent any intimation that he is defective or different from other men. He prefers to suffer uncomplainingly from slight defects rather than to admit openly that he is not the equal of other men. He wants the full rights of a free citizen and asks for no favors or exceptions. It is upon these instincts that modern societies are built; without them no co-operation would be possible. The social forces elevate the type above the individuals and create a feeling of repugnance toward those who deviate from it. Men therefore love the typical race qualities and resent any intimation that they lack any of them.

It is these facts and feelings that make the concept of an economic man valuable. Men apply their ideals in their economic relations. They want, first of all, to know what is the productive power of the normal man and what share in distribution a free citizen can claim. There is no demand for a drawback because of defects, nor is there a morbid desire to expose their weaknesses and shortcomings so as to arouse a public interest in themselves, and thus secure easier work or a higher return than the normal man can get. Nor do they want their palates and stomachs examined to determine whether any weakness in these organs reduces their pleasure of consumption below that which their neighbors derive from the consumption of the same food. It is a good old

democratic ideal that a man's home is his castle into which the public eye shall not pry. So long as this feeling continues men will demand their share of the goods they produce, but they will consume them at home and deny the right of the public inspector to examine into the amount of the initial or marginal utility of their goods to them, or to compare their utility curve with that of other persons.

A theory of prosperity must measure the motives and determine the tendencies of normal men under normal conditions and compare these motives and tendencies as they show themselves in the different periods during which the society has existed. We cannot compare different periods except through the concepts and ideals which the race has acquired through its long and repeated attempts to secure a better adjustment to its environment. Our interest in classes or individuals in two periods is very slight, unless we feel that the changes in their welfare are typical of the changes in the welfare of the whole society. We have, therefore, much less interest in a series of individual cases, however numerous, than in a single case which we regard as a good example of general tendencies. We idealize a case of this kind and apply to it all the rules which are a part of the common stock of inherited ideas. These common ideas are due to the influence of the enduring elements of the environment. They are the surviving parts of a long series of environments made vivid by modifications in our mental habits. They are thus a part of our heredity through which the concept of a normal man is visualized as a real man and becomes an object of more interest than does any single man or group of men. We soon tire of descriptions of individual men and of their misery and suffering, but in the normal man we have a perennial interest. He is more vivid to us than a brother because we feel him to be a part of ourselves. In short, the normal man is a race ideal and has associated with him all the hopes and aspirations of the race. All the social forces tend to make him prominent; he is the type through which the welfare

and misery of other men become real to us. It must, of course, be admitted that the pains and pleasures of each man differ in many respects from those which the normal man is assumed to endure or to enjoy. Yet these differences from the normal standards are not matters of general interest and do not influence the conduct of men in the same way that the peculiarities of the normal man do. The normal man represents the social standard to which we all desire to conform and from which we do not like to have our neighbors know that we differ. To acknowledge that we suffer more than other persons do under similar circumstances is to admit that we are weak; to get more than the normal pleasure from given commodities shows a tendency toward disease or vice.

While it is admitted that the peculiar susceptibilities of particular individuals to pleasures and pains have some influence on values, that influence is not as great as is taken for granted. Were the world made up of a number of Robinson Crusoes the changing moods of individuals would have a great effect on the sum of values. In a society, however, total value is not determined by a man's quantity of goods, multiplied by his marginal utility, but by the total amount on the market multiplied by the utility of the final unit to the marginal consumer. The moods and inclinations of individuals have little or no effect on value, because the greater or smaller quantity of goods which they desire has so small an effect on the general market. We cannot determine the number of suicides by any effect that their loss of interest in worldly goods may have upon market values. It might give to a few individuals the possibility to acquire certain goods at a slight expense, but this would be merely a transfer of values and not a change in them.

In a theory of prosperity the peculiarities of individuals have still less effect. In two periods widely separated the influence of the environment has time to show itself. There are many persons in each age whose pleasures and pains

differ widely from those of the normal man, yet these individuals are gradually weeded out leaving those persons whose pleasures and pains are normal. Those whose pleasures exceed the average tend to live too fast and thus become victims of temptation, disease and vice, while those who suffer much or who get less than the average pleasure, do not have the energy and power to hold their own in the conflicts of life. There is, therefore, a steady pressure exerted toward the elimination of those who differ much from normal conditions. Changes in the environment may raise or lower the standards of life and thus increase or decrease the amount of its pleasures, but a close conformity to normal conditions is always demanded. Those who deviate from them always have a penalty to pay. It is useless to discuss the effects of melancholy, dyspepsia, of the sudden spread of a pessimistic philosophy, or of those forms of elation due to unstable nervous conditions, for the persons subject to these evils do not belong to the enduring part of society. Each age may produce a large number of such unfortunate persons without their welfare affecting the conditions with which a theory of prosperity must reckon.

If this view of social progress be correct it is possible to formulate normal laws that will correspond to the tendencies and ideals which at a given time characterize society. If the periods under consideration are of long enough duration to eliminate individuals whose standards and feelings deviate widely from normal conditions, these laws will also represent the actual conditions and feelings of the members of the various social groups. It is possible, therefore, to have standards accepted by millions of individuals. Their own happiness and misery differ so little from those of the normal man that they prefer to measure their pleasures and pains by standards that apply to him rather than to expose their own weaknesses or to be regarded as abnormal by their fellows. The democratic ideals growing out of these feelings are gradually increasing in number and in the clearness with

which they are perceived. Although they are to some degree modified by every marked change in the environment or in society, these ideals are not displaced; on the contrary, they acquire increased force and make us less willing to deviate from the standards they set.

The endeavor of American economists to extend the field to which the theory of utility is applicable and to treat of the problems of prosperity and progress, as well as those of value and distribution, is in harmony with these tendencies. To do this, however, they must free themselves from the fetters which have bound them so firmly to the theory of marginal utility and make economic theories so broad and so universal that their field will be the same and their force as great as that of the democratic ideals with which they are so closely related. Economists then can bring economic theory into its normal channel and construct a science that will realize the hopes of its founders.

It will be objected, however, that a revival of interest in the mode of thought of these writers will also lead to a revival of the economic orthodoxy that narrowed the thinking of their age and from which we are not yet entirely free. The spirit of recent economic thought has led us away from the narrow formulæ of the older economists, whose deductions have been displaced in a large degree by the more inductive work of our own time. Even the newer school of deductive economists has discarded the old objective standards, and, by an extensive use of subjective premises, has been able to emphasize more fully the peculiarities of individuals. These economists find little use for the so-called economic man and for the doctrines which depend upon this false concept.

I admit in the fullest way the force of these objections and sympathize with the standpoint from which they are made. They furnish valid reasons for the sharp reaction that took place against the economics of the Ricardian School. The results of this newer movement must always be regarded as among the most noteworthy steps in the progress of the

science. It is, however, the content of this newer economics that should be preserved and not the form in which its ideas are expressed, nor the associations that have grown up because of the conflicts by which they were established. The two movements, though seemingly in opposite directions, are, in reality, parts of one progressive change. The economic man and the normal laws of the earlier economists were not mere fictions, but were the application of generally received ideas to economic topics. The great struggle of the eighteenth century was between an aristocracy with its inherited rights and a growing democracy demanding equality for all. The triumph of this democracy was due to the vividness with which its ideals were impressed and to the emphasis which was given to oppression as the cause of the inequalities which existed among men. It was thoroughly instilled into every one that all were born free and equal and that all marked differences in men were due to the crushing weight of the social inequalities or to differences in the education of men. Remove these two evils and the citizens of a future state would so closely resemble one another that their common qualities could be idealized in the economic man.

Our century began with a full expectation on the part of all lovers of humanity that these ideals would soon be realized and the more confident began to talk as if this happy state of affairs were already a reality. But it was soon seen that the new industrial world had its causes of inequality and that more was needed to realize the great race ideals than the mere brushing away of an old aristocracy and its accompanying oppression. It is needless, in this connection, to trace the gradual recognition of new sources of inequality. It was natural that at first single cases, seemingly isolated exceptions, attracted attention and that the depth, the force and the extent of these evils should not be perceived until the race had lived for some time in its new environment. Only after a revolution had taken place in the field of biology was their true source discovered. The old notions of



an unchanging man, with fixed characteristics, now gave place to new ideas of man's development in harmony with the theory of evolution. The part that heredity plays in the formation of character was seen and a basis was obtained upon which new ideas of man and of the causes of social inequality were built.

The Historical School of economists and other opponents of the older economics were the prophets of these new ideas. At first they saw dimly, but afterward more clearly, the evils which the prevailing ideas encouraged. As these evils were largely the result of free competition it was natural that economic doctrines permitting and even justifying the existing state of affairs should receive a strong condemnation. In this way a struggle arose within the field of economics which, of necessity, was indecisive, because the contest really turned on a principle which neither party clearly saw. The economists were in advance of their time and, forced by their interest in the industrial world to struggle over particular and confusing examples of a general principle, about which there was soon to be a contest in the whole intellectual world. For this reason the struggle between the economists, though necessary, was unfortunate. The intellectual atmosphere of the race had to be changed, public opinion had to be reformed and doctrines and ideas, which it had taken generations to create, had to be discarded or restated in harmony with existing conditions.

The inclinations and tendencies of the newer school of economists caused the emphasis of the needs and peculiarities of individuals; its members saw no other way by which they could show the evils and burdens of the weaker classes. They were opposed therefore to any general principles or normal laws in which the differences in men were lost sight of. Such an attitude was justified at a time when the principles, which lay back of the many exceptions to normal laws, were not clearly seen. We are able now to state clearly and definitely the recent additions to economic

thought and there is no reason why the two groups of economic ideas should not be united into one harmonious whole.

The most radical change demanded by the newer economics relates to the doctrine of equality. The earlier thought assumed that there was a body of free citizens oppressed by the restrictions and burdens imposed by a long-standing aristocracy. These free citizens asked for nothing but a fair chance in the struggle of life. The new thought recognizes that many of these citizens have not the qualities, mental and physical, needed for the modern industrial world. As soon as free competition begins, a class is formed so far below the average citizen in intelligence and skill that it is denied a fair participation in the proceeds of industry by the activity or greed of its better equipped competitors. These lower classes are not fitted for a society which refuses to permit any deviation from the normal laws suitable for a society of equals. It is necessary, therefore, to recognize the existence of a dependent class who lack the inherited qualities needed to enable them to enter into a state of free competition. We cannot with justice go on talking and acting as if all men were born free and equal when we know that many come into the world without the qualities needed to fit them for a society of equals. Their peculiarities and needs must in some way be recognized and new institutions devised for their protection.

The transformation of public opinion necessary to relieve the less efficient classes from these evils has gone on very slowly. In the meantime other principles which help in the necessary reconstruction of our ideas are gaining recognition. Of these the doctrine of social solidarity deserves the first place. So long as the really free citizens felt that their interests were not affected by the suffering of the lower classes it was possible to permit a crude struggle for existence, through which these defective and dependent persons were displaced. It is now recognized that the displacements made by a blind struggle for existence are not those which

promote the interests of society. The struggles of the individuals who fail to survive, if they do not lower the tone of the whole society, prevent or at least greatly retard its progress. A progressive society must integrate its parts. Isolation and conflict produce stagnation and decay.

The feeling of social solidarity is also strengthened by changes in our ideas of the nature of the environment. In the older economics each individual was looked on as an independent unit whose adjustment to the economic environment depended upon his own exertions. His success or failure depended upon the way he utilized the forces of nature. It is now seen that this direct contact of individuals with nature is impossible. It is society as a whole that is increasing its adjustments to nature. The individual comes into contact with his physical environment at but few points. He must adjust himself to society rather than to nature. Progress, therefore, presents a double series of changes; the one binding men together in a society and compelling men to think more of its demands than of those of nature, the other modifying and reorganizing the society so as to increase the sum of its adjustments to nature.

When it is once admitted that a mastery of nature is mainly due to the adjustment of society to nature, it becomes evident that there is a social surplus upon which the claims of particular individuals are less than those of society. This social surplus alters the relations existing between the independent members of a society and its dependent classes. Under the old conditions the feeling of benevolence alone determined the amount of aid which the former class gave to the latter. The unfortunate had no rights; the fortunate gave not from a sense of justice but from a feeling of duty. Under present conditions, however, there is a growing feeling that the dependent classes have a right to share in the social surplus, and that this fund is a trust held by the more fortunate classes for the benefit of society as a whole. The latter cannot, therefore, with propriety divide it up among

themselves or allow its distribution to be determined by the laws of trade and commerce from which they alone derive a benefit.

I do not care to discuss the correctness of these doctrines. I wish merely to show that they are the legitimate products of our recent economic development, and that they are becoming social ideals with which economists must reckon in any attempt to harmonize their doctrines with current social philosophy. Economists must recognize that there is a large dependent class in every progressive community; that progress demands a feeling of social solidarity; and that there is a social surplus upon which every member of society has some claim. Every community has a class of social debtors who get more from it than they add to its welfare. Society is thus divided into two classes: these social debtors and the surplus earners who form the body of its citizens. No economic theory harmonizes with present industrial conditions which neglects or refuses to recognize the presence and necessity of these two classes. The surplus earners have feelings and ideals inherited from our past civilization. They desire objective standards and refuse to profit by a public exhibition of their defects; they want common standards, a strict interpretation of their rights; a fair chance and no favors. On the other hand the social debtors delight in the publicity of their deformities. They ask for subjective standards and decry those general rules which shut out of consideration the particulars of each individual case. It is easy to see that the feelings and ideals of the first class have created the normal laws of the older economics, while the misery and suffering of the latter class have been the cause of the development of the subjective standards of the newer economics.

Subjective and objective standards are both necessary. We must seek for some principle to determine the extent of the field to which each group of standards is applicable. Objective standards are fitted for a society of equals, where

each individual has all the mental and physical qualities that belong to the race and create for it its distinctive characteristics. It is not necessary that the typical man represent the ideal of the race; he is thought of merely as the representative of that society. The society may be in any stage of progress if only all its members are in the same stage. In this case, then, feelings and ideals develop which create and enforce objective standards. All the institutions and standards are universal in their application and any exceptions to these general rules are inconsistent with public welfare. All the relations of such persons are reversible; each would demand of the others nothing but what he expects to return in kind. Kant's well-known law—"So act that thy rule of conduct might be adopted as a law by all rational beings"—is a full expression of the moral law of such a society. Subjective standards are needed, however, when a society is formed by the blending of two or more groups in different stages of progress. Between such groups economic relations grow up which would not exist in a society of equals. The division of labor and the differentiation of occupations separate the groups so widely that each group has an environment of its own, with its resulting standards and ideals. The relations existing between these groups are not reversible, nor are the feelings of the members of these groups enough alike to create a common estimate of goods and acts. The individual groups, therefore, must be studied and their feelings and interests determined by subjective standards, allowing consideration for the peculiarities of each case.

A developing society, such as our own, must therefore recognize two standards—the one applying to the free citizen, the other applying to the dependent classes who have not inherited the mental and physical qualities which enable them to cope with their superiors. The first set of rules must emphasize the common qualities of men and neglect their differences, while the other must temper the general rules by measures designed to improve the condition of the

social debtors. Justice and equity correspond in a general way to the ideas which this distinction makes necessary. Justice in the common thought is the law administered without fear or favor. It is a universal rule applied to all equals. In representing justice as a blindfolded woman the thought is emphasized that objective standards are to be used. To enforce the universal rule she must be blind to the station, peculiarities, and defects of individuals. Equity, however, by righting the wrongs due to general rules, corrects the rigidity of the law. It cannot be made a general rule without damage to society. It may be said to represent a higher moral code than justice, because it relies for its sanction upon general consideration and neglects the instincts, feelings and ideals due to the local environment of each society. Justice is clear and definite and its demands have the support of the particular environment to which the society is adjusted. Equity is an undefined residual due to the influence of broader concepts than those which the particular environment would create. No local environment is so powerful as to exclude some elements of a more general environment from influencing the ideals of men. There can, therefore, be no permanent limits to the scope of justice and equity. As a progressive society passes from local to more general environments some of its rules of equity become general rules and thus a part of justice; but a new type of equity appears through the influence of a still more general environment, with which the society now has some points of contact. Equity therefore tends to magnify the influence of the more general but less definite characteristics of national life, while justice holds firmly to those clearly perceived and well-established rules which fit present conditions.

This distinction between the sources of justice and of equity is clearly manifest in the history of Roman law. In its early history the citizens of Rome were a compact body bound together by ties of relation and ancestry. They were all regarded as equals and justice was administered by fixed

rules of universal application. The migration to Rome of large numbers of people from the other Italian tribes soon created an alien population that had no share in these primitive institutions. For this new element of the population a new law was devised which was, in reality, a collection of the rules and principles common to all the Italian tribes. Roman justice was a group of rules fitted for the local environment of the early Romans. Roman equity was the rules suited to an environment so enlarged as to include all Italy.\* When Rome and Italy became one the justice and equity of earlier times blended into one system and became one body of laws. A new equity, due to the influence of a still larger environment, would doubtless have arisen had not the decline of Rome stopped further progress. In fact the doctrines of the Christian religion contained such an equity, but it did not exert much influence until more modern times.

The history of English equity illustrates the same truth. The common law grew up during the Middle Ages when the Feudal system created a peculiar type of a society with definite relations between its members. There was at this time a clearly defined local environment with few points of contact with the outer world. When the environment of the English people was enlarged and new industrial problems arose, a rigid application of the common law failed to satisfy the new conditions. A relief from the evils of the old system was obtained by the development of courts of equity in which decisions were based on broader considerations than those recognized by the common law. Equity was supposed to represent the King's conscience and by an appeal to it a way was found to remedy the defects of the old law. When the modifications in the law demanded by the new environment of the English people were well worked out by the courts of equity there was no longer any real distinction between law and equity; they both became forms of justice and could have been administered by one court.

\*Maine, "Ancient Law," p. 49.

The opposition of Bentham to this distinction is not to be wondered at, because in his day all the accepted law was so well established as to become general rules and thus capable of codification. This fact, however, does not show that there is not a real distinction between justice and equity. The equity of one age becomes a part of the established rules of justice of the next age through an enlargement of the environment; yet a new equity appears, because of the inadaptation of the nation to this new environment and the "King's conscience," or the conscience of the public, must be appealed to in order to prevent new forms of injustice.

It is not within the province of this paper to devise a new system of equity to remedy the evils due to an inelastic application of old principles. I will call attention, however, to certain rules which must be observed if it is to supplement but not displace normal laws. The first rule is that no appeal should be made to equity except when the claimant plainly lacks some of the common qualities possessed by the typical man. In the case of equals objective standards should always be applied. The free citizen should have feelings which resent any application of exceptional principles. The social debtors, however, do not have the qualities necessary to foresee distant results, nor have they the power to resist aggression. Their cases are therefore exceptional and demand measures which will secure for them some share in the social surplus.

The second rule is that the claims of individuals for equity are against society and not against individuals. Justice deals with relations between individuals; equity deals with the relations between society and its parts or members. Inequity is due to defects in the regulations or activities of the state, and if these defects are not remedied the state should bear the burden. It only creates a new inequity to impose these burdens upon the citizens who happen to stand in close economic relations to the class or individuals that the first inequity injures. The wrongs of a weaker class are not



righted by arbitrary interference which seeks to aid them at the expense of those with whom they have economic dealings. So also when unexpected industrial changes, beneficial to the public, throw burdens upon certain individuals, they have no right to demand that their losses shall be shifted from themselves to other persons with whom they stand in industrial relations. Their claim for compensation, if valid, is against the public. Society should assume the losses due to industrial progress and recoup itself by asserting its claim to a part of the social surplus which progress creates.

The third rule is that the right of the social debtors to some share in the social surplus does not carry with it the right to determine the form in which they shall receive it. They have not a right to support, a right to work, or any other right giving them a free income to dispose of as they choose. They, like other persons, must satisfy their intense wants and cravings by their own efforts. In the distribution of the social surplus the ends to be kept in view are the progress of society and the acquisition of the common race qualities by all its members. The social debtors must be so elevated that they have the standards and ideals of other citizens. Society is the sole judge of these matters and it must decide what means are the best to secure the desired ends.

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